

## REMARKS

In the Office Action mailed from the United States Patent and Trademark Office on March 11, 2008, the Examiner rejected claims 1-6, 8-10, 14-19, 22-23, 25, 27-29, 31, 33-43, 48, 50-52, 58-59 and 61-69 under 35 U.S.C. 103(a) as being unpatentable over Parry et al (United States Patent No. 6,077,085, hereinafter "Parry") in view of Krebs (United States Patent No. 7,029,280, hereinafter "Krebs"), rejected claims 12, 53-55 and 57 under 35 U.S.C. 103(a) as being unpatentable over Parry in view of Krebs and further in view of Rukavina et al (United States Patent Application Publication No. 2002/0188583, hereinafter "Rukavina"), rejected claims 24, 26, 60, and 70 under 35 U.S.C. 103(a) as being unpatentable over Parry in view of Krebs and further in view of Kershaw et al (United States Patent No. 5,565,316, hereinafter "Kershaw"), rejected claims 30 and 49 under 35 U.S.C. 103(a) as being unpatentable over Parry in view of Krebs and further in view of Jenkins et al (United States Patent No. 6,293,801, hereinafter "Jenkins"), rejected claim 32 under 35 U.S.C. 103(a) as being unpatentable over Parry in view of Krebs and further in view of Strub et al (United States Patent No. 6,652,287, hereinafter "Strub"), and rejected claims 35-36 and 44-46 under 35 U.S.C. 103(a) as being unpatentable over Parry in view of Krebs and further in view of Siefert (United States Patent No. 5,810,605, hereinafter "Siefert").

Applicant respectfully submits that the claim set as provided herein is not made obvious by the cited references, and respectfully provides the following:

M.P.E.P. § 2141 sets forth the *Graham* factual enquiries that should be considered when making an obviousness rejection under Section 103: 1) ascertaining the scope and content of the prior art; 2) ascertaining the differences between the claimed invention and the prior art; and 3) resolving the level of ordinary skill in the pertinent art. (Citing *Graham v. John Deere*, 383 U.S.

1, 148 USPQ 459 (1966).) In addition, M.P.E.P. §§ 2141 and 2142 set forth that “the analysis supporting a rejection under 35 U.S.C. 103 should be made explicit.” (Citing *KSR International Co. v. Teleflex Inc. (KSR)*, 550 U.S. \_\_\_, 82 USPQ2d 1385 (2007).)

For a rejection under Section 103 to stand, it must explicitly set forth 1) factual findings showing that each claim element was known in the art at the time of the invention, and 2) factual findings showing that one of ordinary skill in the art, at the time of the invention, would have found it obvious to modify or combine the teachings to arrive at the claimed invention. (See, for example, the enumerated required articulations set forth in M.P.E.P. § 2143 for each lettered rationale.)

Applicant respectfully submits that the references in the Office Action, either alone or in combination, do not teach or suggest all the limitations claimed in the claim set provided herein. In particular, the cited references do not teach or suggest, alone or in combination, an adaptive educational path that comprises dynamic educational content and a plurality of educational activities for presentation to learners, wherein the dynamic educational content is separate and independent from the plurality of educational activities. Additionally, the cited references do not teach or suggest, alone or in combination that aspects of the educational content are associated in a relational order even when an aspect of the educational content is moved. Further, the cited references do not teach or suggest, alone or in combination, using the system to automatically and adaptively customize the educational path to the particular learner, wherein the customizing of the educational path comprises: identifying which portions of the educational content and the educational activities are to be combined and presented to the learner based upon the learner performance data obtained and analyzed by the system; combining the identified portions of the educational content and the educational activities; and sequencing the combined educational

content and educational activities for the learner based upon the learner performance data obtained and analyzed by the system, wherein the sequencing comprises modifying the combination of the educational content and educational activities based upon the learner performance data. In contrast, the limitations claimed in the claim set as provided herein cited are supported by the present application as originally filed.

For at least the reasons provided herein, Applicant respectfully submits that the references cited in the Office Action, alone or in combination, do not teach or suggest all the claim limitations of the independent base claims. And, since the references cited in the Office Action do not teach or suggest each and every limitation of the independent claims, Applicant respectfully submits that the prior art references do not make obvious the independent claims as provided herein. And since the prior art references do not make obvious the independent claims, Applicant respectfully submits that the prior art references cited in the Office Action do not make obvious the corresponding dependent claims, which depend from the independent base claims.

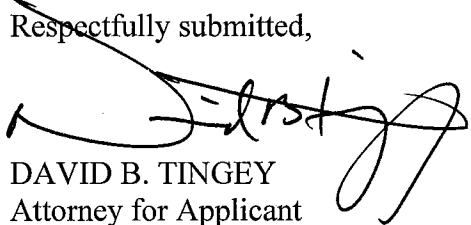
Thus, Applicant respectfully submits that for at least the reasons provided herein, the claim set as provided herein overcomes all rejections made in the Office Action.

CONCLUSION

Applicant submits that the amendments made herein do not add new matter and that the claims are now in condition for allowance. Accordingly, Applicant requests favorable reconsideration. If the Examiner has any questions or concerns regarding this communication, the Examiner is invited to call the undersigned.

DATED this 11<sup>th</sup> day of July, 2008.

Respectfully submitted,



DAVID B. TINGEY  
Attorney for Applicant  
Registration No. 52,289

KIRTON & McCONKIE  
1800 Eagle Gate Tower  
60 East South Temple  
Salt Lake City, Utah 84111  
Telephone: (801) 323-5986  
Facsimile: (801) 321-4893

DBT:wmc  
1073522